

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: IOWA TELECOMMUNICATIONS SERVICES, INC., d/b/a IOWA TELECOM	DOCKET NOS. SPU-04-10 WRU-04-16-263
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**ORDER DOCKETING FOR FURTHER REVIEW, DENYING WAIVER,
GRANTING REQUEST FOR CONFIDENTIALITY, AND
ESTABLISHING PROCEDURAL SCHEDULE**

(Issued May 12, 2004)

THE APPLICATION FOR REVIEW

On April 12, 2004, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), filed with the Utilities Board (Board) an application for review of a proposed reorganization pursuant to Iowa Code § 476.77. Iowa Telecom proposes a reorganization in which it will publicly offer certain Income Deposit Securities (IDSs) for sale. The application has been identified as Docket No. SPU-04-10.

In support of its request, Iowa Telecom states that the sale will result in a change in ownership of the controlling capital stock of Iowa Telecom from four common stockholders to a much broader general investing public. Iowa Telecom further states that its proposal does not involve a sale of the company or a merger of entities. Rather, Iowa Telecom states that after the reorganization, it will continue to be an Iowa-based telecommunications provider, managed by the same Iowa-based

management, providing integrated telecommunications services. Iowa Telecom asserts it will continue to provide safe, reasonable, and adequate service to its customers and that the reorganization will not be detrimental to the public interest.

THE REQUEST FOR WAIVER

Also on April 12, 2004, Iowa Telecom filed a request for a waiver of the reorganization review requirements of Iowa Code § 476.77 or, alternatively, to expedite the reorganization review process. In support of this request, Iowa Telecom states that the Board has waived these requirements in two prior decisions, In re: Qwest Communications International Inc., Sale of Publishing Business, "Order Granting Request for Waiver," Docket No. WRU-02-37-272 (October 18, 2002) (Qwest I) and In re: Qwest Corporation, "Order Granting Waiver," Docket No. WRU-03-68-272 (December 15, 2003) (Qwest II).

On May 10, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection to Iowa Telecom's request for waiver of the reorganization review requirements, stating that the Board decisions relied upon by Iowa Telecom to support its waiver request do not authorize waiver of the review of Iowa Telecom's proposal. Consumer Advocate asserts that in Qwest I, the Board initially denied the requested waiver until modifications were made to assure the Board that review was not necessary in the public interest. Consumer Advocate also asserts that in Qwest II there was no impact to services that were subject to the Board's jurisdiction. Consumer Advocate argues that review is appropriate because

the reorganization proposed by Iowa Telecom is a relatively new and different security and the federal income tax consequences are currently unresolved and may result in different consequences for Iowa Telecom's customers.

Pursuant to Iowa Code § 476.77(4), the Board may waive the requirements of § 476.77 if the Board finds that review of the proposed reorganization "is not necessary in the public interest." Based on the objection filed by Consumer Advocate, the Board is unable to make the necessary finding. Therefore, the Board will deny Iowa Telecom's request for waiver, without prejudice. If the parties are able to resolve their issues at a later date, the Board can revisit the waiver request.

DOCKETING

The Board will docket Iowa Telecom's proposed reorganization for further review. Iowa Code § 476.77(2) provides that the Board must issue a decision regarding a proposed reorganization within 90 days of the date the application for review was filed. Therefore, the Board will establish a schedule for consideration of Iowa Telecom's proposal that is intended to permit a Board ruling on or before July 11, 2004, if not sooner.

REQUEST FOR CONFIDENTIAL TREATMENT

Also on April 12, 2004, Iowa Telecom filed a request for confidential treatment of the affidavit of Alan L. Wells and certain exhibits of Craig A. Knock's testimony that were submitted in support of Iowa Telecom's application for review. Iowa Telecom

states that Mr. Wells's affidavit and Mr. Knock's exhibits contain proprietary information that constitutes trade secrets under Iowa Code §§ 550.2(4) and 22.7(3). The material for which confidentiality was requested was filed in a separate envelope and marked confidential. Iowa Telecom cites Iowa Code §§ 22.7(3) and 22.7(6) as authority for confidential treatment of the information.

Iowa Code § 22.7(3) provides confidential treatment for trade secrets that are recognized and protected as such by law. The material submitted by Iowa Telecom includes specific proprietary information that supports its proposal for reorganization. The supporting affidavit by Allan Wells, President and Chief Executive Officer of Iowa Telecom, states that the information is unpublished data and is not known outside of Iowa Telecom and is in fact restricted to certain Iowa Telecom employees.

The Board finds that the application and affidavit support a finding that the cost information constitutes a trade secret under Iowa Code § 550.2(4) as it derives independent economic value, actual or potential, from not being generally known to, and not be readily ascertainable by proper means by a person able to obtain economic value from its disclosure, and is the subject of reasonable efforts to maintain its secrecy. The Board finds that this information, if released, would provide an advantage to Iowa Telecom's competitors.

Iowa Code § 22.7(6) provides confidential treatment to public records that are reports to government agencies and which, if released, would give advantage to competitors and would serve no public purpose. The Board finds the submitted

information constitutes a report to a government agency and the Board finds that the release of the information would serve no public purpose. Therefore, the Board will hold the information confidential under the provisions of Iowa Code §§ 22.7(3) and 22.7(6) and 199 IAC 1.9, as requested on April 12, 2004.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The "Application for Review of Proposed Reorganization," filed by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, on April 12, 2004, identified as Docket No. SPU-04-10, is docketed for further review pursuant to Iowa Code § 476.77.
2. The request for waiver filed by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, on April 12, 2004, is denied without prejudice as described in this order.
3. The following procedural schedule is established:
 - a. The Consumer Advocate Division of the Department of Justice and any other objectors shall file prepared rebuttal testimony, with supporting exhibits and workpapers, on or before May 26, 2004.
 - b. Petitioners may file any prepared rebuttal testimony, with supporting exhibits and workpapers, on or before June 7, 2004.
 - c. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 9 a.m. on June 22, 2004, in the

Board's hearing room at 350 Maple Street, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at 515-281-5256 to request that appropriate arrangements be made.

4. In the absence of objection, all data requests and responses referred to in oral testimony or cross-examination, which have not previously been filed with the Board, shall become a part of the evidentiary record. The party making reference to the data request or response shall file an original and six copies at the earliest possible time.

5. In the absence of objection, if the Board calls for further evidence on any issue and that evidence is filed after the close of hearing, the evidentiary record shall be re-opened and the evidence will become a part of the evidentiary record five days after filing. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of hearing.

6. Pursuant to 199 IAC 7.7(2) and (11), the time for filing responses or objections to data requests and motions will be shortened to five days from the date the motion is filed or the data request is served. All data requests and motions should be served by facsimile transfer or by electronic mail, in addition to United States mail.

7. The request for confidentiality filed by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, on April 12, 2004, is granted pursuant to Iowa Code §§ 22.7(3) and 22.7(6). The information shall be held confidential by the Board subject to the provisions of 199 IAC 1.9(8)"b"(3).

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 12th day of May, 2004.